

REMARKS

Applicant is submitting herewith a terminal disclaimer statement to obviate a double patenting rejection over a prior United States patent 6,410,233 for allowed claims 11-19 and 32 as requested by the Examiner.

To the best of their knowledge Applicant's believe that the amendments to the specification do not add new matter.

PATENTABILITY ARGUMENTS**A. Response to 35 U.S.C. § 112 Rejections**

In items 5 and 6 the Examiner rejects claims 20-27, 29, 33, 35 and 37-38 under 35 U.S.C. §112 first paragraph as failing to comply with the written description requirement. Applicants respectfully disagree but have elected to cancel claims 20-27, 29, 33, 35 and 37-38 without prejudice in order to move the application toward allowance.

In items 16 through 18 the Examiner rejects claims 36 and 38 as being indefinite for failing to particularly point out and distinctly claims the subject matter which applicants regard as their invention. Applicant respectfully disagrees but in order to move the application toward allowance has elected to cancel claims 36 and 38 without prejudice.

B. Response to 35 U.S.C. §102 (b) Rejections

In items 8 and 9 the Examiner rejects claims 20-29 as being anticipated by *de Belle et al.* (Biotechniques 29:162, July 2000) and claims 20-23, 26, 27, 29 and 37 as being anticipated by *Oralndo et al.* (Cell 75:1187, 1993) under 35 U.S.C. §102(b). Applicants respectfully disagree but have elected to cancel claims 20-29 and 37 without prejudice in order to move the application toward allowance.

C. Response to 35 U.S.C. §103 (a) Rejections

In item 11 the Examiner reminds Applicant of the obligation to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made. Applicant believes that claims 11-19 and 32 are commonly owned.

In item 12 the Examiner rejects claims 20-27, 29 and 37 as being unpatentable over *Orlando et al.* in view of *Hallahan et al.* (The Journal of Biological Chemistry 270:30303, 1995) under 35 U.S.C. §103(a). Applicants respectfully disagree but have elected to cancel claims 20-27, 29, 33, 35 and 37-38 without prejudice in order to move the application toward allowance.

D. Response to Double Patenting Rejection

The Examiner rejects claims 11-27, 29 and 32-38 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 through 9 of U.S. patent 6,410,233. In compliance with rule 37 C.F.R. §1.78(a)(2)(ii) Applicants are submitting herewith a petition under 37 C.F.R. §1.17(t) for acceptance of an unintentional delayed claim for priority under 35 U.S.C. §120 and petition fee of \$1,330.00 to overcome this double patenting rejection. Upon granting of Applicant's petition the specification will be amended to include the section titled "Reference to Related Applications" stating that this application is a continuation-in-part from patent no.: 6,410,233, which maintains the priority of the original application (16 March 1999). If this occurs the request for a terminal disclaimer becomes moot, however, Applicant is submitting herewith a terminal disclaimer statement and filing fee of \$55.00 under 37 C.F.R. §1.20(d) in the event the petition is not accepted.

CONCLUSION

In view of the above Applicant's have demonstrated that the invention as claimed satisfies the statutory requirements for patentability. Applicant's respectfully request that the Examiner issue an allowance of the claims.

Respectfully submitted,

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